APPENDIX A

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 80-3598

EDDIE THOMPSON, JR.,
PATRICIA THOMPSON,

Plaintiffs-Appellants,

vs.

A. T. WOOD,

Defendant-Appellee.

ORDER

(Filed March 22, 1982)

Before: ENGEL, Circuit Judge, WEICK, Senior Circuit Judge, and COHN, District Judge*

No judge in regular active service of the court having requested a vote on the suggestion for a rehearing en banc, the petition for rehearing filed herein by the plaintiffs-appellants has been referred to the panel which heard

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* Hon. Avern Cohn, United States District Judge for the Eastern District of Michigan, sitting by designation.

the original appeal. Upon consideration of said petition, the court finding no issues presented which have not been previously considered,

IT IS ORDERED that the petition for rehearing en banc be and it is hereby denied.

ENTERED BY ORDER OF THE COURT

/s/ JOHN P. HEHMAN
Clerk

APPENDIX B

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 80-3598

EDDIE THOMPSON, JR. AND
PATRICIA THOMPSON,

Plaintiffs-Appellants,

v.

A. T. WOOD,
(COUNTY CLERK OF KENTON COUNTY),

Defendant-Appellee.

ORDER

(Filed March 31, 1982)

BEFORE: ENGEL, Circuit Judge; WEICK, Senior Circuit Judges; and COHN, District Judge.*

This appeal has been referred to a panel of the Court pursuant to Rule 9 (a), Rules of the Sixth Circuit. After examination of the briefs and the record, this panel agrees unanimously that oral argument is not needed. Rule 34 (a), Federal Rules of Appellate Procedure.

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* The Honorable Avern Cohn, Judge, U.S. District Court for the Eastern District of Michigan, sitting by designation.

Plaintiffs-appellants, the Thompsons, are appealing from the District Court's judgment dismissing with prejudice the Thompsons' civil rights complaint. 42 U.S.C. § 1983, 1975. The Thompsons allege that defendant-appellee Wood was part of a racist conspiracy to take away the Thompsons' home. Wood, the county clerk, filed a deed giving title in the property to the bank even though Thompson had told Wood that the deed was void due to irregularities in the foreclosure proceedings.

In their complaint, the Thompsons ask for damages and declaratory relief. Wood is immune from damages since his action in filing the deed was at the direction of the county judge. *Slotnick* v. *Garfinkle,* 632 F.2d 163, 166 (1st Cir. 1980). The Thompsons are not entitled to declaratory relief because the complaint is attempting to convert a state cause of action into a federal one by conclusory allegations of conspiracy and race-motivated actions by Wood. *Ohio Inns, Inc.* v. *Nye,* 542 F.2d 673, 676 (6th Cir. 1976), *cert. denied,* 430 U.S. 946 (1977).

Accordingly, it is ORDERED that the judgment of the District Court be and hereby is affirmed under Rule 9 (d) 3, Rules of the Sixth Circuit, because the issues are not substantial and do not require oral argument.

ENTERED BY ORDER OF THE
COURT
/s/ JOHN P. HEHMAN
Clerk

A TRUE COPY
Attest:
JOHN P. HEHMAN, Clerk
By /s/ GARY McCARTHY
Deputy Clerk
Issued as Mandate: March 30, 1982
Costs: None.

APPENDIX C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION No. 78-96

EDDIE THOMPSON, JR.,

Plaintiff,

vs.

A. T. WOOD,

Defendant.

ORDER

(Filed July 22, 1980)

This matter being before the court on the motion of the plaintiffs to reconsider this court's final order and judgment of June 26, 1980, and the court being advised,

IT IS ORDERED that said motion be, and it is, hereby denied.

This 22nd day of July, 1980.

/s/ WILLIAM O. BERTELSMAN
Judge

APPENDIX D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION No. 78-96

EDDIE THOMPSON, JR., ET AL,
Plaintiff,

vs.

A. T. WOOD,
Defendant.

JUDGMENT

(Filed June 26, 1980)

For reasons stated in the memorandum opinion filed concurrently herewith, and the court being advised,

IT IS ORDERED AND ADJUDGED that the complaint herein be dismissed, with prejudice, at the cost of the plaintiff.

This 25th day of June, 1980.

/s/ WILLIAM O. BERTELSMAN
Judge

APPENDIX E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION No. 78-96

EDDIE THOMPSON, JR.,

Plaintiff,

vs.

A. T. WOOD,

Defendant.

MEMORANDUM OPINION

(Filed June 26, 1980)

The complaint in this action in essence states that A. T. Wood, County Clerk of Kenton County, Kentucky, recorded a Master Commissioner's deed conveying to the purchaser at a judicial sale certain real estate which had been owned by Thompson and foreclosed upon by a lending institution.

A copy of the deed is in the record, and the court has examined it. It appears to be regular on its face, having been executed by the Master Commissioner and approved by the court, pursuant to Kentucky law. K.R.S. 426.575.

Therefore, the court is of the opinion that the County Clerk had no discretion in the matter of recording it, and any knowledge he may have had of the underlying foreclosure proceedings or plaintiff's legal position that they were void is irrelevant. The mere fact of recording a deed is a ministerial function in which the County Clerk has no discretion. He is certainly not required to review the foreclosure proceedings underlying every Master Commissioner's deed to determine whether they are void. If he were to undertake to perform such a function, he would be constituting himself a de facto court of appeals. If plaintiff had desired to seek review of the foreclosure proceedings, his remedy was to file an appeal in the Court of Appeals of Kentucky. Therefore, the court is of the opinion that the complaint fails to state a claim upon which relief can be granted against the defendant, and that the defect cannot be cured by amendment. Judgment will enter accordingly.

This 25th day of June, 1980.

/s/ WILLIAM O. BERTELSMAN
Judge

APPENDIX F

OPINION RENDERED: May 2, 1980
NOT TO BE PUBLISHED

COMMONWEAL TH OF KENTUCKY
COURT OF APPEALS

NO. 79-CA-1456-MR

PATRICIA THOMPSON and
EDDIE THOMPSON, JR.,

Appellants,

v.

PEOPLES LIBERTY BANK,

Appellee.

Appeal from Kenton Circuit Court
Honorable William R. Dunn, Judge
Action No. 33430

AFFIRMING

BEFORE: HAYES, Chief Judge, BREETZ and WILHOIT, Judges.

HAYES, CHIEF JUDGE. Eddie Thompson, Jr. and Patricia Thompson appeal from an order and judgment of the Kenton Circuit Court dismissing a forcible detainer

proceeding and the appeal therefrom. The Peoples Liberty Bank and Trust Company of Covington, Kentucky, filed the complaint for forcible detainer in Kenton Quarterly Court in September, 1977. The quarterly court rendered judgment for the bank on September 26, 1977 and ordered that a writ of restitution issue. The writ of restitution was never executed. The Thompsons appealed the quarterly court judgment to Kenton Circuit Court on September 28, 1977. No action was taken by either party to the proceeding until March 5, 1979 when the bank moved to dismiss the case as being moot on the grounds that the bank had obtained the property pursuant to another Kenton Circuit Court action and had conveyed same in July, 1978. The Thompsons filed a motion for a trial date on March 9, 1979. On March 13, 1979 the circuit court entered a judgment dismissing the case with prejudice as being moot. From this judgment the Thompsons appeal.

The Thompsons have proceeded pro se in these proceedings and apparently in the several actions in the various Kenton courts, obviously a substantial contributing factor to the Thompsons' confusion and lack of understanding concerning this proceeding. Apparently the Thompsons no longer have the property in question and ask this court to order the circuit court to put them in possession of such property. However, the simple fact is, that the property was not taken from them as a result of this case, but such was accomplished in a separate circuit court action. The Thompsons are attempting to attack a judgment over which this court has no jurisdiction. The circuit court ordered the action dismissed explaining to the Thompsons in a hearing that that was the most relief which it could grant, i.e. the bank's forcible detainer proceeding would be dismissed with prejudice. Since the Thompsons had not been

relieved of their property as a result of the forcible detainer proceeding but rather had been so relieved as a result of a circuit court proceeding, the dismissal of the forcible detainer proceeding could not result in the Thompsons being placed in possession of the property in question. The circuit court was not in error in dismissing the proceedings with prejudice. It is the bank not the Thompsons, as they perceive, who are prejudiced with respect to the proceedings.

Since we have no jurisdiction over federal courts, we will not comment on the issue raised pertaining thereto.

The judgment is affirmed.

ALL CONCUR.

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